

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

| | | |
|----------------------------------|---|--------------------|
| SHARON L. PARTRIDGE |) | |
| Claimant |) | |
| VS. |) | |
| |) | Docket No. 180,277 |
| AUGUSTA MEDICAL COMPLEX |) | |
| Respondent |) | |
| AND |) | |
| |) | |
| CIGNA |) | |
| Insurance Carrier |) | |
| |) | |
| AND |) | |
| |) | |
| WORKERS COMPENSATION FUND |) | |

ORDER

Claimant appealed the Award dated July 17, 1997, entered by Administrative Law Judge John D. Clark. The Appeals Board heard oral argument on January 14, 1998.

APPEARANCES

Mel Gregory of Wichita, Kansas appeared for the claimant. Douglas C. Hobbs of Wichita, Kansas, appeared for the respondent and its insurance carrier. Gail Carpenter of Great Bend, Kansas, appeared for the Workers Compensation Fund.

RECORD AND STIPULATIONS

The record considered by the Appeals Board and the parties' stipulations are listed in the Award.

ISSUES

Judge Clark denied claimant's request for benefits. Claimant requested the Appeals Board to review that denial. The issues now before the Appeals Board on this review are:

- (1) Did claimant sustain personal injury by accident arising out of and in the course of her employment with respondent in either May or June 1993?
- (2) If so, what is the nature and extent of claimant's injury and disability?
- (3) What is the liability of the Workers Compensation Fund?
- (4) Did claimant provide the respondent with timely notice of her alleged accidental injuries?

FINDINGS OF FACT

After reviewing the entire record, the Appeals Board finds:

The Appeals Board adopts the findings set forth by Judge Clark in the Award. Additionally, the Board finds that Ms. Partridge failed to prove that she sustained additional injury while working for Augusta Medical Complex in either May or June 1993. That conclusion is based upon the following facts:

- (1) Before the three alleged work-related lifting incidents in May and June 1993, Ms. Partridge was undergoing active medical treatment for her low back, which was injured in an October 1992 automobile accident. That accident was not related to Ms. Partridge's work at Augusta Medical Complex.
- (2) A CAT scan taken in February 1993 indicated that Ms. Partridge had degenerative changes and bulging discs at the L4-5 and L5-S1 intervertebral spaces, mild spinal stenosis at both levels, and a disc protrusion at the L3-4 spinal level.
- (3) Because her low back symptoms were not improving, Ms. Partridge's family physician, Dr. Ronald M. Varner, referred her to a surgeon, Dr. Paul S. Stein, who prescribed three epidural steroid injections. The first injection, which was administered in April 1993, helped somewhat. But the second and third injections, which were administered in June 1993, did not help at all and, instead, caused Ms. Partridge to experience increased pain.
- (4) Despite Ms. Partridge allegedly telling Dr. Varner about the three alleged lifting incidents, Dr. Varner does not mention any of those incidents in his office notes.
- (5) Ms. Partridge did not prepare any incident or accident report pertaining to any of the three alleged lifting incidents although the reports were readily available and she had prepared such a report about a work-related incident as recently as January 1993.
- (6) Carol George, who was Ms. Partridge's immediate supervisor in 1993, testified that during the period in question Ms. Partridge did not report any of the three alleged lifting

incidents to her and did not request medical treatment for any work-related injury. Ms. George also testified that Ms. Partridge told her that she was taking leave of absence from Augusta Medical because of her back injury from the earlier car wreck.

(7) According to the documents in Dr. Varner’s file, in July 1993 Ms. Partridge completed and signed a credit disability benefits form. In that form, Ms. Partridge indicated she was injured as the result of an automobile accident that occurred on October 12, 1992, and that she had been troubled by three bulging discs since that accident. No mention is made in that document of any work-related injury.

(8) In March 1994, Dr. Varner wrote the attorney who was working on Ms. Partridge’s personal injury claim and advised that her back problems were directly related to the October 1992 automobile accident. No mention is made in that letter that Ms. Partridge had either injured or aggravated her back while working in May or June 1993.

CONCLUSIONS OF LAW

Because Ms. Partridge has failed to prove that she sustained personal injury by accident arising out of and in the course of her employment with Augusta Medical Complex, the Award denying benefits should be affirmed. Based upon that conclusion, the remaining issues set forth above are rendered moot.

AWARD

WHEREFORE, the Appeals Board affirms the Award dated July 17, 1997, entered by Administrative Law Judge John D. Clark.

IT IS SO ORDERED.

Dated this ____ day of September 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Mel Gregory, Wichita, KS
- Douglas C. Hobbs, Wichita, KS
- Gail Carpenter, Great Bend, KS
- John D. Clark, Administrative Law Judge
- Philip S. Harness, Director